

**MINUTES**  
**REGULAR MEETING OF THE CITY COUNCIL**  
**CITY OF MEMPHIS**

**January 27, 2009**

**3:30 P.M. SCHEDULED SESSION**

**3:40 P.M. MEETING COMMENCED**

**ROLL CALL:** William Boyd, Joe Brown, Harold Collins, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Bill Morrison, Jim Strickland, Barbara Swearengen Ware and Chairman Myron Lowery

**THE MEETING WAS CALLED TO ORDER  
BY SERGEANT-AT-ARMS**

**INVOCATION**

The meeting was opened with prayer by Rev. O.C. Collins, Jr. from Bethlehem M.B. Church. Councilwoman Fullilove presented Rev. Collins with a certificate naming him Chaplain of the day.

**These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.**

**31. RESOLUTION HONORING RONNIE GREEN FOR OUTSTANDING SERVICE TO THE COMMUNITY.**

MOTION: Brown  
SECOND: Ford

**APPROVED**, unanimous voice vote

**MINUTES****(Councilman Conrad requested that his vote on item #3-PD 08-315, be changed to recused)**Approval of the Minutes of the regular meeting of January 6, 2009 with the following motion:

MOTION: Boyd  
SECOND: Morrison  
AYES: Boyd, Collins, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Strickland, Ware  
and Chairman Lowery  
Brown, Flinn and Morrison did not cast a vote

**APPROVED**, as amended

1. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE EXISTING WESTERN TERMINUS OF MARKET PLAZA DRIVE, CONTAINING 15 ACRES IN AN AREA CURRENTLY GOVERNED BY PD 04-312.**

Case No. PD 08-326

Applicant: Tombo Properties  
John Maxwell – Representative

Request: Amend Outline Plan Parcel I-D of the Galleria Planned Development to expand it by including 15 acres from Outline Plan Parcel I-A, in order to permit hotels/motels, including site plan approval for the construction of a Hilton Garden Inn Hotel six stories in height with 138 guest rooms

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison  
SECOND: Strickland  
AYES: Boyd, Collins, Conrad, Flinn, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery  
Brown and Ford did not cast a vote

**APPROVED**

2. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE NORTH SIDE OF TRINITY ROAD, +749 FEET WEST OF GERMANTOWN ROAD, EXTENDING NORTH TO THE SOUTH SIDE OF MORIARITY ROAD, CONTAINING 4.3 ACRES IN THE HEAVY INDUSTRIAL (I-H) DISTRICT.**

Case No. PD 08-329

Applicant: B & H Hospitality, LLC (Bill Brennan)  
Ronald Harkavy – Representative

Request: Hotel, Office, Retail or Restaurant

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison

SECOND: Strickland

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth,  
Morrison, Strickland, Ware and Chairman Lowery

**APPROVED**, as amended

3. **RESOLUTION APPROVING A USE VARIANCE LOCATED ON THE NORTHEAST CORNER OF REMBERT STREET AND UNION AVENUE WITH FRONTAGE ON MORRISON STREET INTERSECTION, CONTAINING 1.575 ACRES IN THE HIGHWAY COMMERCIAL (C-H) AND MULTIPLE DWELLING RESIDENTIAL (R-MM) DISTRICTS.**

Case No. UV 08-12

Chairman Lowery recognized the following person who spoke from the audience:

June West, 1650 Peabody Avenue, Memphis, TN. 38104

Applicant: Chick-Fil-A, Inc.

Request: Use variation to allow driveway and off-street parking for a  
restaurant

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison

SECOND: Strickland

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth,  
Morrison, Strickland, Ware and Chairman Lowery

**APPROVED**

4. **ORDINANCE TO AMEND ZONING REGULATIONS TO ADOPT DEFINITIONS FOR FINANCIAL SERVICES, PAYDAY LOAN ESTABLISHMENTS AND TITLE LOAN ESTABLISHMENTS AND TO CREATE NEW USE CATEGORIES FOR PAYDAY LOAN ESTABLISHMENTS AND TITLE LOAN ESTABLISHMENTS AND TO ESTABLISH LOCATION AND DISTANCE SEPARATION REQUIREMENTS FOR PAYDAY AND TITLE LOAN ESTABLISHMENTS, UP FOR T H I R D AND F I N A L READING. (THIS ITEM WAS PULLED FROM THE MINUTES OF 12/2/08 ON 12/16/08 AND SENT BACK TO COMMITTEE). (HELD FROM 1/6)**

Ordinance No. 5284  
Case No. ZTA 08-001cc

MOTION: Collins  
SECOND: Boyd  
AYES: Boyd, Brown, Collins, Flinn, Ford, Halbert, Hedgepeth, Morrison, Strickland,  
Ware and Chairman Lowery  
Fullilove abstained  
Conrad did not cast a vote

**APPROVED**, as amended

5. **ORDINANCE REZONING THE SOUTH SIDE OF OVERTON PARK AVENUE; +114.58 FEET WEST OF HAWTHORNE STREET, CONTAINING 0.3932 ACRE IN THE SINGLE FAMILY RESIDENTIAL (R-S8) DISTRICT, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5290  
Case No. Z 08-116

Applicant: Mr. & Mrs. Caleb Sweary  
Askew Hargraves Harcourt & Associates – Representative

Request: Single Family Residential (R-S6) District

LUCB and OPD recommendation: APPROVAL

MOTION: Morrison  
SECOND: Strickland  
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison,  
Strickland, Ware and Chairman Lowery  
Conrad did not cast a vote

**APPROVED**

**CONSENT AGENDA – Items 6 – 15 may be acted upon by one motion: SEE PAGE 2778 FOR ROLL CALL**

6. **ORDINANCE TO REQUIRE COUNCIL APPROVAL ON ALL LAWSUITS INITIATED BY THE CITY, UP FOR F I R S T READING.**

Ordinance No. 5294

**APPROVED**, on First reading

7. **ORDINANCE TO AMEND THE CODE OF ORDINANCES, OF THE CITY OF MEMPHIS, PERTAINING TO THE CONTRACTS OF THE MEMPHIS LIGHT, GAS AND WATER DIVISION RELATING TO SETTLEMENT AGREEMENTS UNDER WORKERS' COMPENSATION LAWS, UP FOR S E C O N D READING.**

Ordinance No. 5291

**APPROVED**, on Second reading

8. **ORDINANCE TO PROVIDE FOR MINIMUM ENERGY EFFICIENCY IN RENTAL PROPERTY, UP FOR S E C O N D READING.**

Ordinance No. 5292

**APPROVED**, on Second reading

9. **ORDINANCE TO AMEND CHAPTER 2, ARTICLE XI, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO CHANGE THE REPORTING REQUIREMENTS FOR SMALL BUSINESSES, UP FOR S E C O N D READING.**

Ordinance No. 5293

**APPROVED**, on Second reading

10. **ORDINANCE REZONING THE NORTH END OF BLEDSOE ROAD CUL-DE-SAC; NORTH OF HOLMES ROAD, CONTAINING 16.91 ACRES IN SINGLE FAMILY RESIDENTIAL (R-S6) DISTRICT, UP FOR F I R S T READING.**

Ordinance No. 5295

Case No. Z 08-117

**APPROVED**, on First reading

11. **ORDINANCE REZONING MOORE ROAD, BEGINNING AT GERMANTOWN PARKWAY AND ENDING AT WALNUT GROVE ROAD, EXTENDING APPROXIMATELY ONE MILE IN LENGTH IN THE AGRICULTURAL (AG) DISTRICT, UP FOR F I R S T READING.**

Ordinance No. 5296

Case No. SNC 08-802

**APPROVED**, on First reading

12. **RESOLUTION ACCEPTING STAGE CREEK CENTER P.D., PHASE II, AREA A, PART OF AREA B AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 95-331cc

(Contract No. CR-4072)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the south side of Stage Road east of Appling Road. The standard improvement contract was approved on May 7, 1996. Resolution also authorizes the release of the Letter of Credit in the amount of \$14,800.00.

City Engineer recommends approval

**APPROVED****13. RESOLUTION ACCEPTING STONEBRIAR P.D., PHASE 5 AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 03-335cc  
(Contract No. CR-5011)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the west side of Shades Valley Place, south of East Holmes. The standard improvement contract was approved on May 16, 2006. Resolution also authorizes the release of the cash bond in the amount of \$99,800.00. This action is subject to County approval.

City Engineer recommends approval

**APPROVED****14. RESOLUTION ACCEPTING BLUFF CITY BUSINESS PARK SUBDIVISION AND AUTHORIZING RELEASE OF BOND.**

Case No. S 07-019  
(Contract No. CR-5112)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the southeast corner of Getwell and Mallory Avenue. The standard improvement contract was approved on August 19, 2008. Resolution also authorizes the release of the letter of credit in the amount of \$38,700.00.

City Engineer recommends approval

**APPROVED****15. RESOLUTION APPROVING FINAL PLAT OF JACKSON AVENUE OPEN AIR COMMUNITY MARKET P.D., PHASE 1.**

Case No. PD 07-301

Resolution approves the final plat located on the west side of Jackson Avenue and the south side of Wales Avenue.

City Engineer recommends approval

**APPROVED****ROLL CALL CONSENT ITEMS**

MOTION: Morrison  
SECOND: Strickland

AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery  
Brown did not cast a vote

**APPROVED**

**MLGW FISCAL CONSENT – Items 16 – 21 may be acted upon by one motion:**

16. **RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11186, ENVIRONMENTAL ABATEMENT SERVICES, WITH GENERAL CONSTRUCTION SERVICES, INC., IN THE FUNDED AMOUNT OF \$3,200,500.00. (THIS RENEWS THE CONTRACT FOR THE FIRST OF FOUR RENEWAL TERMS, DECEMBER 10, 2008 TO DECEMBER 9, 2009.)**

**APPROVED**

17. **RESOLUTION AWARDED CONTRACT FOR 12-MONTH SUPPLY OF #2 TRIPLEX CABLE TO POWER SUPPLY COMPANY IN THE AMOUNT OF \$260,000.00.**

**APPROVED**

18. **RESOLUTION AWARDED CONTRACT FOR REMOTE TERMINAL UNITS AND ACCESSORIES TO TELVENT USA, INC. IN THE AMOUNT OF \$71,169.50.**

**APPROVED**

19. **RESOLUTION AMENDING RESOLUTION APPROVED BY THE BOARD ON FEBRUARY 7, 2008, FOR GAS METERS TO INCLUDE THE FOLLOWING LANGUAGE: *WITH AN OPTION TO EXTEND THE CONTRACT FOR TWO ADDITIONAL 12-MONTH PERIODS, NOT TO EXCEED 36 MONTHS, BASED ON SATISFACTORY PERFORMANCE OF THE INITIAL 12-MONTH PERIOD, AND REQUESTING APPROVAL TO EXERCISE THE OPTION TO EXTEND THE CONTRACT FOR THE SECOND 12-MONTH PERIOD FOR GAS METERS AS FOLLOWS:***

Elster American Meter Company.....	\$766,379.00
Romet International LTD.....	<u>281,782.00</u>
Total.....	<u>\$1,048,161.00</u>

**APPROVED**

20. **RESOLUTION AWARDED CONTRACT FOR ONE HYDRAULIC EXCAVATOR TO POWER EQUIPMENT COMPANY IN THE AMOUNT OF \$142,000.00.**

**APPROVED**

21. **RESOLUTION AWARDING CONTRACT TO DIAMOND INTERNATIONAL TRUCKS, INC. FOR MODIFICATIONS TO FOUR CABS AND CHASSIS IN THE AMOUNT OF \$51,621.12.**

**APPROVED**

**MLGW ROLL CALL CONSENT ITEMS**

MOTION: Ware  
SECOND: Morrison  
AYES: Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Strickland,  
Ware and Chairman Lowery  
Boyd, Brown and Morrison did not cast a vote

**APPROVED**

22. **RESOLUTION AMENDING THE FISCAL YEAR 2009 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING \$148,308.00 IN FUNDS FROM FIRE STATION REPAIR, PROJECT NUMBER FS02001 TO FIRE STATION #57, PROJECT NUMBER FS02014. THE RESOLUTION ALSO APPROPRIATES \$3,148,308.00 FUNDED BY G.O. BONDS-GENERAL IN FIRE STATION #57, PROJECT NUMBER FS02014, CONTRACT CONSTRUCTION.**

MOTION: Hedgepeth  
SECOND: Ford  
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Halbert, Hedgepeth, Strickland,  
Ware and Chairman Lowery  
Fullilove and Morrison did not cast a vote

**APPROVED**

**(Due to the machine malfunctioning, voice votes were taken for the remainder of the meeting)**

23. **RESOLUTION APPROVING AMENDMENTS TO ARTICLE I, DEFINITIONS, SECTION 1.32, ELIGIBLE ROLLOVER DISTRIBUTION; SECTION 1.37, HANDICAPPED CHILD; AND SECTION 1.39, DEFINITION OF LIMITATION YEAR OF THE MEMPHIS LIGHT, GAS AND WATER DIVISION RETIREMENT AND PENSION SYSTEM AS AMENDED AND RESTATED, EFFECTIVE JANUARY 1, 2001.**

MOTION: Ware  
SECOND: Ford  
AYES: Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Strickland,  
Ware and Chairman Lowery  
Boyd and Morrison



**APPROVED**

24. **RESOLUTION APPROVING AMENDMENTS TO ARTICLE VI, RETIREMENT AND TERMINATION BENEFITS, SECTION 6.3, ORDINARY DISABILITY RETIREMENT BENEFIT, (A) GENERAL; SECTION 6.6, ADJUSTMENTS, (A) GENERAL AND (B) AMOUNT OF ADJUSTMENT; AND SECTION 6.8, SPECIAL PROVISIONS CONCERNING DISABILITY, (C) REHABILITATION OF THE MEMPHIS LIGHT, GAS AND WATER DIVISION RETIREMENT AND PENSION SYSTEM AS AMENDED AND RESTATED, EFFECTIVE JANUARY 1, 2001.**

MOTION: Ware

SECOND: Ford

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

**APPROVED**

**(Items #25, #26, and #27 were called together and (1) vote was taken)**

25. **RESOLUTION APPROVING AMENDMENTS TO ARTICLE VII, PAYMENT OF BENEFITS, SECTION 7.2, LUMP-SUM PAYMENT OF BENEFIT, SECTION 7.3, DIRECT ROLLOVER DISTRIBUTIONS; AND SECTION 7.5, CLAIMS, (A) PROCEDURE AND (B) REVIEW PROCEDURE OF THE MEMPHIS LIGHT, GAS AND WATER RETIREMENT AND PENSION SYSTEM AS AMENDED AND RESTATED, EFFECTIVE JANUARY 1, 2001.**
26. **RESOLUTION APPROVING AMENDMENT TO ARTICLE VIII, DEATH BENEFITS, SECTION 8.2, IN-SERVICE DEATH, (A) UNVESTED PARTICIPANT OF THE MEMPHIS LIGHT, GAS AND WATER DIVISION RETIREMENT AND PENSION SYSTEM AS AMENDED AND RESTATED, EFFECTIVE JANUARY 1, 2001.**
27. **RESOLUTION APPROVING AMENDMENTS TO ARTICLE X, ADMINISTRATION, SECTION 10.1, PENSION BOARD: APPOINTMENT AND TERM OF OFFICE, (B) TERM; AND SECTION 10.3, POWERS AND RESPONSIBILITIES OF THE PENSION BOARD OF THE MEMPHIS LIGHT, GAS AND WATER DIVISION RETIREMENT AND PENSION SYSTEM AS AMENDED AND RESTATED, EFFECTIVE JANUARY 1, 2001.**

MOTION: Ware

SECOND: Morrison

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery

**APPROVED, items #25, #26 & #27**

28. **RESOLUTION APPROVING A POLICY TO MANAGE THE PRICE VOLATILITY OF COMMODITIES CONSUMED IN THE NORMAL COURSE OF OPERATING THE MEMPHIS LIGHT, GAS AND WATER DIVISION (MLGW) SYSTEMS.**

MOTION: Ware

SECOND: Boyd

AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Halbert, Morrison, Strickland, Ware and Chairman Lowery  
Hedgepeth did not cast a vote

**APPROVED**

29. **RESOLUTION AMENDING THE FY 2009 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION OF \$2,750,000.00 FUNDED BY G.O. BONDS (STORM WATER) FROM MAJOR DRAINAGE REHAB/REPLACE, PROJECT NUMBER ST03098, TO TRENCHLESS REHAB FY 09, PROJECT NUMBER ST03114, FOR REHAB OF TRENCHLESS STORM WATER STRUCTURES. RESOLUTION ALSO APPROPRIATES \$2,750,000.00 FUNDED BY G.O. BONDS (STORM WATER) FOR TRENCHLESS REHAB FY09, PROJECT NUMBER ST03114, FOR A CONSTRUCTION CONTRACT WITH MOORE CONSTRUCTION COMPANY, INC.**

MOTION: Boyd

SECOND: Brown

AYES: Boyd, Brown, Collins, Conrad, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery  
Flinn and Ford did not cast a vote

**APPROVED**

30. **RESOLUTION AMENDING THE FY 2009 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION OF \$2,750,000.00 FUNDED BY G.O. BONDS (STORM WATER) FROM MAJOR DRAINAGE REHAB/REPLACE, PROJECT NUMBER ST03098, TO INFRASTRUCTURE REHAB FY09, PROJECT NUMBER ST03115, FOR REHAB OF STORM DRAINAGE INFRASTRUCTURE. RESOLUTION ALSO APPROPRIATES \$2,750,000.00 FUNDED BY G.O. BONDS (STORM WATER) FOR INFRASTRUCTURE REHAB FY09, PROJECT NUMBER ST03115, FOR A CONSTRUCTION CONTRACT WITH FERRELL PAVING, INC.**

MOTION: Boyd

SECOND: Brown

AYES: Boyd, Brown, Collins, Conrad, Flinn, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Lowery  
Ford did not cast a vote

**APPROVED**

32. **RESOLUTION CREATING THE CIVILIAN LAW ENFORCEMENT REVIEW BOARD AD HOC COMMITTEE.**

**DROPPED**

33. **RESOLUTION TO EXEMPT CERTAIN CITY OF MEMPHIS POLICE OFFICERS WHOSE DUTIES REQUIRE THEM TO PERFORM SERVICES ON BEHALF OF THE CITY OUTSIDE OF THE TERRITORIAL LIMITS OF THE CITY OF MEMPHIS.**

Chairman Lowery recognized the following people who spoke from the audience:

J. Deke Pope, 4992 Autumnwood Dr., Memphis, TN. 38116

J.D. Sewell, 638 Jefferson, Memphis, TN. 38105

Rev. Jennings Bernard, 3388 Emerald, Memphis, TN. 38115

Minister Sukara A. Yahweh, 775 Porter Avenue, Memphis, TN. 38126

**(Councilman Hedgepeth made a motion to suspend the rules and allow residency 20 miles outside the boundaries of Shelby County).**

**(Special Item #1)- 20 miles outside the boundaries of Shelby County**

MOTION: Hedgepeth

SECOND: Strickland

AYES: Boyd, Collins, Conrad, Flinn, Hedgepeth, Morrison and Strickland

NAYS: Brown, Ford, Fullilove, Halbert, Ware and Chairman Lowery

**APPROVED**

**(Councilman Collins made a motion to separate Item #33 and vote on (2) separate resolutions. #1 - Shelby County Residency Only and #2 – 20 miles outside the boundaries of Shelby County)**

**(Special Item #2) –Separation of Item #33**

MOTION: Collins

SECOND: Ford

AYES: Boyd, Collins, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Strickland, Ware and Chairman Lowery

NAYS: Brown, Halbert and Morrison

**APPROVED**

**(Special Item #3) – Residency within Shelby County Tennessee**

MOTION: Collins  
SECOND: Ford  
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Morrison,  
Strickland and Chairman Lowery  
NAYS: Halbert and Ware

**APPROVED**

**(Special item #4) – Residency 20 miles outside the boundaries of Shelby County Tennessee**

MOTION: Collins  
SECOND: Strickland  
AYES: Boyd, Collins, Conrad, Flinn, Fullilove, Hedgepeth, Morrison and Strickland  
NAYS: Brown, Ford, Halbert, Ware and Chairman Lowery

**APPROVED**

**(Special Item #5)- Same Night Minutes on Special Item #3 – Residency within Shelby County Tennessee)**

MOTION: Ford  
SECOND: Collins  
AYES: Boyd, Brown, Collins, Conrad, Flinn, Ford, Fullilove, Morrison, Strickland  
and Chairman Lowery  
NAY: Ware  
Halbert and Hedgepeth did not cast a vote

**APPROVED**

**(Rev. Albert Ware closed the meeting with a Prayer)**

**ADJOURNED MEETING AT 6:50 P.M.**

.....  
Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

\_\_\_\_\_  
C H A I R M A N

Attest:

\_\_\_\_\_  
Deputy Comptroller/Council Records